

DATE: March 12, 2012

SUBJECT: Meeting Summary for the March 8, 2012, Veolia-EPA  
Conference Call

FROM: David Ogulei, Environmental Engineer  
ARD/APB/Air Permits Section

TO: Files

THRU: Genevieve Damico, Section Chief

The following is a summary of a conference call between EPA Region 5 and Veolia ES Technical Solutions, L.L.C., held on March 8, 2012 at 10:00 am. Representing EPA were David Ogulei, Genevieve Damico, and Danny Marcus. Representing Veolia were Doug Harris, Dave Klarich, and Dennis Warchol

This summary provides a written record of the subject conference call by identifying highlights from the call.

EPA and Veolia discussed the following topics:

**Extrapolation of metal feed rates**

EPA explained that our current course of action is to fully deny Veolia's significant modification request because EPA believes the extrapolation factors proposed in the application are not approvable. EPA's concerns are as follows:

- o EPA does not recommend any extrapolation for Hg because the performance test feed rates were too low (< 50% of the highest historical 12-hour rolling average feed rate). For Unit 4, EPA needs an acceptable analysis of the corresponding activated carbon injection rate at higher feed rates. Therefore, the Hg test feed rates would be set as the Hg feed rate OPL.
- o If the test feed rate was higher than the highest historical 12-hour rolling average feed rate (e.g., SVM from Units 2 & 4), EPA would use the test feed rate as the OPL.
- o For LVM (Units 2, 3, 4) and SVM (Unit 3), EPA plans to grant extrapolation up to the highest historical 12-hour rolling average feed rate because the test feed rate was higher than the median historical feed rate. Therefore, the OPLs for LVM (Units

2, 3, 4) and SVM (Unit 3) would be set to be equal to the highest historical 12-hour rolling average feed rate.

Procedurally, EPA plans to issue a notice of intent to deny (NOID) the permit application, as required by 40 C.F.R. § 71.11(a)(3). The NOID will explain the reasons for the denial and re-iterate the extent of extrapolation, if any, that might be acceptable to EPA. Veolia will then have an opportunity to submit a revised application that addresses EPA's concerns.

Veolia commented that they are confused by the methodology being used by EPA to estimate stack concentrations. They believe that EPA has used a "straight-line" approach, which EPA has previously claimed was not acceptable. Also, Veolia is concerned that EPA is proposing to deny an extrapolation approach that they believe is allowed under the HWC MACT, and has previously been approved for other facilities within Region 5. EPA responded that as we gain more experience with the HWC MACT, it is possible we will require applicants to perform different types of analyses in the future. Veolia also stated that they do not believe they are required to test at their highest historical rate (i.e., "extreme range of normal") in order for extrapolation to be granted. EPA agreed to check with EPA's rule writers to verify the intent of the extrapolation language in the HWC MACT.

EPA stated that a source can only extrapolate to their highest historical rate or the feed rate used during testing, whichever is higher. EPA cited 64 FR 52947, September 30, 1999, which explains that EPA took this policy position "to avoid creating an incentive to burn wastes with higher than historical levels of metals." Veolia said some of the HMC MACT regulations (e.g., the 1999 and 2003 rules) were either vacated or remanded by the courts and therefore should be interpreted with caution.

Veolia stated that they would be interested in coming to the table with EPA to discuss a middle ground on the extrapolation factors. Veolia said they are willing to consider extrapolation factors that fall between what they proposed in March 2010 and what EPA recommends above. Dave Klarich, Veolia's MACT Implementation Manager, will perform some calculations, review the applicable regulations & guidance, and provide additional background information to EPA. Also, Veolia will review historical data to see if a more recent 5-year period can be used to establish their "historical normal". Veolia will provide the historical data to EPA for use in verifying the highest historical 12-hour rolling average calculation. Veolia and EPA will schedule a conference call or face-to-face meeting, as

necessary, to communicate what extrapolation methodology Veolia "can live with".

EPA agreed to give Veolia an opportunity to respond to EPA's proposed course of action before issuing the NOID. EPA will provide Veolia with a drop-dead date by which they must provide additional information to support their extrapolation methodology, or propose a revision to their application. Should Veolia not meet that deadline, EPA would proceed to issue the NOID.

#### **Feedstream Analysis Plan (FAP)**

EPA stated that we believe Veolia's FAP is inadequate. EPA plans to require Veolia to either revise their plan to incorporate EPA's comments, or EPA will impose a FAP that addresses their concerns. EPA stated that the plan is based on a 1985 wastestream analysis plan (WAP) that contains a number of outdated provisions. Veolia stated that they are confused by the additional Clean Air Act requirements when RCRA, incinerator manufacturers, and the State have their own requirements. Veolia also explained that their FAP is actually based on a 1994 WAP. Veolia stated that the 1994 version of the WAP differs significantly from the 1985 version. Veolia will submit the 1994 version of the WAP/FAP to EPA for review.

#### **NEIC Report**

EPA stated that if EPA and Veolia agreed on an extrapolation methodology, EPA would not issue a draft permit for public comment until the NEIC report is released. The report is expected in late spring.

#### **Assignments**

EPA pledged to research answers to the following questions:

- Is the historical range of normal metal feed rates referenced by the HWC MACT in § 63.1207 & § 63.1209 frozen in time? i.e., must the period used to develop the historical normal feed rate precede the date of the MACT or compliance date, whichever is later, or should it always be the 5 years preceding the permit action?
- If the historical range of normal is always the 5 years preceding the permit action, the HWC would always have a lower historical range of normal in the current permit action than the previous permit action. When EPA wrote the HWC MACT, did EPA intend to have a "downward spiral" of historical metal

feed rates as facilities reduce the quantity of metals in their feedstreams?

Additionally, EPA agreed to provide Veolia with a "drop dead date" by which Veolia must provide additional information on the proposed extrapolation methodology.

For their part, Veolia will:

- Review the highest historical rate calculations including a review of whether a more recent time period is more appropriate for establishing the highest historical 12-hour rolling average.
- Share historical feed rate data and calculations with EPA.
- Provide additional information to support Veolia's extrapolation methodology, or propose a different extrapolation methodology in the form of a revision to the significant modification application.
- Submit a copy of the 1994 WAP.